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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

SEP - 9 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

|   |   |                      |
|---|---|----------------------|
| In the Matter of                                  | ) |                      |
|   | ) |                      |
| Implementation of 911 Act                         | ) | WT Docket No. 00-110 |
|   | ) |                      |
| The Use of N11 Codes and Other                    | ) | CC Docket No. 92-105 |
| Abbreviated Dialing Arrangements                  | ) |                      |
|   | ) |                      |
| MobileTel, LLC                                    | ) |                      |
| Petition for Waiver of Sections 20.18(b), 64.3001 | ) |                      |
| & 64.3002 of the Commission's Rules and the       | ) |                      |
| Deadline Established in the Fifth                 | ) |                      |
| Report and Order                                  | ) |                      |

To: Chief, Wireless Telecommunications Bureau

**PETITION FOR WAIVER**

MobileTel, LLC ("MobileTel"), by its attorneys, and pursuant to Sections 1.3 and 1.925 of the Commission's Rules,<sup>1</sup> hereby requests waiver of Sections 20.18(b), 64.3001 and 64.3002 of the Commission's Rules and an extension of the September 11, 2002 deadline to transmit 911 calls to an appropriate local emergency authority.<sup>2</sup> Waiver is warranted because the underlying purpose of the 911 Rule would be frustrated by application to the instant case. Additionally, the public interest in the importance of

<sup>1</sup> 47 C.F.R. §§ 1.3 and 1.925.

<sup>2</sup> 47 C.F.R. §§ 20.18(b), 64.3001 & 64.3002 (the "911 Rule"); *In the Matter of Implementation of 911 Act; The Use of N11 Codes and Other Abbreviated Dialing Arrangements: Fifth Report and Order* CC Docket No. 92-105, *First Report and Order* WT Docket No. 00-110, *Memorandum Opinion and Order on Reconsideration* CC Docket No. 92-105 and WT Docket No. 00-110, 16 FCC Rcd 22264 (2001) ("Fifth Report and Order").

localism requires deference to State and local authorities as the primary safety agencies responsible for directing the delivery of 911 calls.

## **I. Background**

MobileTel and an affiliated wireline company, Lafourche Telephone Company, LLC, (“Lafourche”) (collectively the “Carriers”) provide service to the Town of Grand Isle, Louisiana. Because the Town of Grand Isle has no facilities to handle 911 calls, the Mayor of the Town of Grand Isle recently instructed MobileTel to send all wireless 911 calls made in Grand Isle to a recording stating that “the call[s] cannot be completed as dialed.”<sup>3</sup> This directive was consistent with the historical treatment of landline calls.<sup>4</sup>

The Carriers and the Mayor conducted extensive discussions regarding the locality’s emergency requirements and the Carrier’s duties. Ultimately, recognizing that the on-going two-party review of possible alternative solutions required additional input, the Carriers requested guidance from the Office of the Governor of the State of Louisiana as to how best to handle the delivery of 911 calls in the Town of Grand Isle.<sup>5</sup> To date, these efforts have not yielded an appropriate alternative solution. Accordingly, the

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<sup>3</sup> See Attachment 1 – Letter dated July 24, 2002 from Honorable David J. Camardelle, Mayor, Town of Grand Isle to Mr. Tommie Morgan, President, MobileTel. The Town of Grand Isle is part of Jefferson Parish. Jefferson Parish is not identified in Appendix D of the Fifth Report and Order. Accordingly, the Carriers are not required to file 911 Transition Reports.

<sup>4</sup> *Id.* The Carriers deliver 911 calls to the appropriate local emergency authorities in all of their other service areas as required by the 911 Rule and the Fifth Report and Order.

<sup>5</sup> See Attachment 2 – Letter dated September 3, 2002 from Todd Brady, Executive Vice President of SJI, LLC, the parent company of MobileTel and Lafourche to Governor Mike Foster, Governor of Louisiana.

Carriers request an extension of the September 11, 2002 deadline for delivery of 911 calls in the Town of Grand Isle.<sup>6</sup>

## **II. Waiver is Warranted**

Grant of waiver of the Commission's Rules is warranted when "the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest."<sup>7</sup>

MobileTel's waiver request satisfies this waiver standard.

### **A. The Underlying Purpose of the Rule Would be Frustrated by Application to the Instant Case**

In fashioning its requirement that telecommunications carriers deliver 911 calls to appropriate local emergency authorities by September 11, 2002, the Commission determined that it would "defer to States and localities" regarding the selection of the appropriate emergency authority.<sup>8</sup> Accordingly, the 911 Rule provides that in situations where the State or local authority has not made a determination as to the delivery of 911 calls, carriers first must seek guidance from the entity to be designated by the State's Governor pursuant to section 3(b) of the 911 Act before it selects an appropriate local

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<sup>6</sup> Lafourche is concurrently filing a similar request for waiver with the Wireline Competition Bureau.

<sup>7</sup> 47 C.F.R. § 1.925(b)(3)(i). *See City of Angels Broadcasting, Inc. v. FCC*, 745 F.2d 656, 662-63 (D.C. Cir. 1984) (waiver of the Commission's Rules is appropriate where special circumstances warrant a departure from the general rule, and such departure will serve the public interest); *WAIT Radio v. F.C.C.*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (the waiver should serve the policy goals and principles which underlie the waived rule).

<sup>8</sup> Fifth Report and Order, 16 FCC Rcd at 22275. *See Id.* at 22267 (Commission adopting a "flexible approach" that "highlights the important role of States and localities in their continuing efforts to improve emergency services").

emergency authority to be the recipient of the calls.<sup>9</sup>

In the instant case, the local authority has made a determination that there are currently no facilities in the Town of Grand Isle that can handle 911 calls and has instructed the Carriers to deliver the calls to a recording while alternatives are being considered. Pursuant to the Fifth Report and Order, the Carriers have “initiate[d] discussions with the appropriate State authorities and the entity to be designated by each State’s governor under section 3(b) of the 911 Act, to coordinate on what the default point should be for each locality.”<sup>10</sup>

The 911 Rule was implemented to promote public health and safety in a manner consistent with individual requirements and capabilities of diverse communities throughout the country. Imposing the September 11, 2002 deadline without allowing the State and local authorities the opportunity to arrive at the solution which is appropriate for the Town of Grand Isle would contravene the underlying purpose of the Commission’s 911 Rule, and undermine the framework for the orderly delivery of

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<sup>9</sup> *Id.* at 22273. The Commission acknowledged that the Wireless Communications and Public Safety Act of 1999 (“911 Act”) does not require a State or locality to establish an emergency service. *In the Matter of Implementation of 911 Act; The Use of N11 Codes and Other Abbreviated Dialing Arrangements: Fourth Report and Order and Third Notice of Proposed Rulemaking CC Docket No. 92-105, Notice of Proposed Rulemaking WT Docket No. 00-110*, 15 FCC Rcd 17079, 17085 (2000). The Commission further noted that in promulgating rules pursuant to the 911 Act, the Commission is “not requiring States and localities to implement 911 as the emergency assistance number where they do not have 911 service” and that its rules should “recognize the varying conditions that exist in communities throughout this country.” *Id.* at 17085-86.

<sup>10</sup> Fifth Report and Order, 16 FCC Rcd at 22275 n.64. *See* Attachment 2 (the Carriers requesting guidance from the State Governor’s Office regarding the delivery of 911 calls to the Town of Grand Isle).

emergency services through deference to the recognized wisdom and experience of State and local authorities. Accordingly, extension of the September 11, 2002 deadline is required until the local and State authorities are able to identify an appropriate alternative solution and the Carriers are able to complete all necessary translation and routing to deliver 911 calls in the Town of Grand Isle.

**B. Grant of the Waiver Would Serve the Public Interest**

In its Fifth Report and Order, the Commission recognized a variety of public interest rationales as the basis for its decision that deference to State and local authorities is appropriate. First, the Commission noted that a State or locality would have a “significant interest” in selecting a particular type of emergency authority such as the police, county sheriff, medical services provider or fire department that “it deems best suited for a particular area.”<sup>11</sup> Second, the Commission recognized that the authorities may need to select a particular emergency authority as part of a comprehensive statewide approach under the 911 Act.<sup>12</sup> The Commission also recognized that these governmental agencies must be granted deference because of their positions as the “primary safety and security agencies.”<sup>13</sup>

Accordingly, based on the Commission’s own findings, the public interest requires that the Commission temporarily waive the September 11, 2002 deadline in this instance to allow the Mayor of the Town of Grand Isle and the Louisiana State Governor’s Office to find appropriate alternatives. Strict enforcement of the 911 Rule

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<sup>11</sup> Fifth Report and Order at 22274-75.

<sup>12</sup> *Id.*

would, in this instance, jeopardize public safety by requiring the Carriers to begin delivering 911 calls to a local emergency authority that is not equipped to handle such calls.

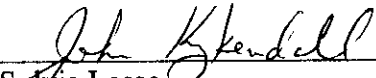
### **III. Conclusion**

Because the underlying purpose of the FCC's 911 Rule would be frustrated by application to the instant case and to further the public interest, MobileTel respectfully requests temporary waiver of the September 11, 2002 deadline to deliver 911 calls in the Town of Grand Isle, Louisiana until such time that State and local authorities are able to select an appropriate local emergency authority and MobileTel can complete all translation and routing necessary to deliver 911 calls to the governmental-selected authority.

Respectfully submitted,

**MOBILETEL, LLC**

By:

  
Sylvia Lesse  
John Kuykendall

Its Attorneys

Kraskin, Lesse & Cosson, LLP  
2120 L Street, N.W.  
Suite 520  
Washington, D.C. 20037  
(202) 296-8890

September 9, 2002

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<sup>13</sup> *Id.* at 22271.



**David J. Camardelle . MAYOR      GRAND ISLE**

POST OFFICE BOX 200 • LUDWIG LANE • GRAND ISLE, LOUISIANA 70358 • PHONE (504) 787-3196

*July 24, 2002*

*Mr. Tommie Morgan  
President, MobileTel, Inc.  
115 West 10<sup>th</sup> Blvd.  
Larose, La 70373*

*Dear Mr. Morgan:*

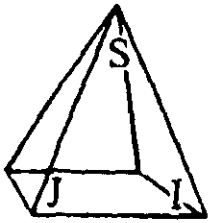
*You have asked for guidance on how MobileTel is to handle 911 calls coming into your wireless system that originate from the new site that you are establishing in the Town of Grand Isle.*

*It is our understanding that Lafourche Telephone Company, Inc., our local exchange carrier, currently routes those calls to a recording that states that the call cannot be completed as dialed. This is appropriate because the Town of Grand Isle currently has no arrangements with any 911 systems.*

*The Town of Grand Isle requests that any wireless 911 calls coming into your facilities from the site located in the Town of Grand Isle also be sent to a recording stating that the call cannot be completed as dialed.*

*Sincerely yours,*

*Hon. David J. Camardelle  
Mayor, Town of Grand Isle*


**SJI, Inc.**

112 West 10<sup>th</sup> Street  
Post Office Box 188  
Larose, LA 70373  
(985) 693-4567

**COPY**

September 3, 2002

Governor Mike Foster  
Office of the Governor  
Post Office Box 94004  
Baton Rouge, Louisiana 70804-9004

RE: Routing of 911 calls for Grand Isle

Dear Governor Foster:

I am Executive Vice President of SJI, LLC, the parent company of Lafourche Telephone Company, LLC, a local exchange carrier, and MobileTel, LLC, a wireless service provider licensed by the Federal Communications Commission ("FCC"), providing telecommunications services to parishes in the Southeastern region of Louisiana. Our federal regulatory counsel has advised us that the FCC's rules require us to write to you both for guidance and to confirm our understanding of how we should handle the delivery of 911 calls in those communities that have not deployed 911 facilities to handle 911.

Many communities throughout the country face the problem of balancing the public value against the cost of establishing local 911 service dispatch communications centers. The Town of Grand Isle, where our companies are authorized to serve, does not yet have the facilities to handle 911 emergency calls, nor have they been able to identify for us any local emergency authority to receive the 911 calls. For the time being, the Mayor of Grand Isle has instructed us to deliver 911 calls to a recording stating that such "calls cannot be completed as dialed." Mayor Camardelle has informed us of possible solutions being pursued by his office. Although we are still in discussions with the office of the Mayor, we have, as of this date, received no directives as to an alternate handling of 911 calls.

In the absence of your direction to do otherwise, we will continue this policy. If, however, you can assist us with the identification of a local emergency authority to whom we can direct these 911 calls, we will do so. Our federal counsel informed us that under FCC Rules, we are obligated to "identify an appropriate local emergency authority, based on the exercise of reasonable judgment after the initiation of contact with the State Governor's designated entity under section 3(b) of the [911] Act, and to complete all translation and routing necessary to deliver 911 calls to such authority no later than nine months from the release date of this Order," i.e., by September 11, 2002.

The SJI Family:  
Lafourche Telephone Company, Inc. • MobileTel, Inc.

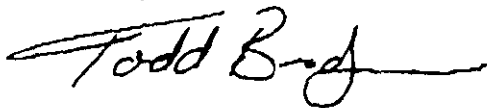


Governor Mike Foster  
September 3, 2002  
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The FCC has addressed situations such as Grand Isle where local law enforcement or other local authorities are unable to act as a default point by requiring carriers to "initiate discussions with the appropriate State authorities and the entity to be designated by each State's governor under section 3(b) of the 911 Act, to coordinate on what the default point should be for each locality."

Although our companies are subject to FCC authority, we recognize that the FCC has no jurisdiction over the office of the Governor. We would appreciate any guidance you could offer, however, and pledge our willingness to work with you or any authority you designate to determine how to best handle the delivery of 911 calls in the Town of Grand Isle.

Sincerely,



Todd Brady  
Executive Vice President - SJI, LLC

TB / bab

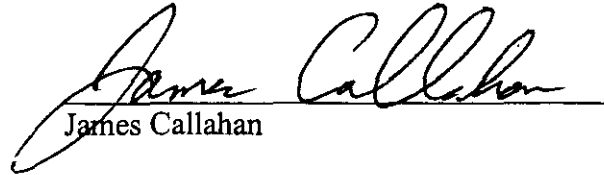
cc: Lawrence C. St. Blanc  
Secretary  
Louisiana Public Service Commission  
P.O. Box 91154  
Baton Rouge, LA 70821-9154  
P: (225) 342-4427  
F: (225) 342-4087

cc: Federal Communications Commission

cc: Mayor David Camardelle, Town of Grand Isle

# DECLARATION OF JAMES CALLAHAN

I, James Callahan, President of MobileTel, LLC ("MobileTel"), do hereby declare under penalty of perjury that I have read the foregoing "Petition for Waiver" and that the information contained therein that pertains to MobileTel is true and accurate, to the best of my knowledge, information and belief.

  
James Callahan

Dated: 9/6/02

**CERTIFICATE OF SERVICE**

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Petition for Waiver" was served on this 9<sup>th</sup> day of September 2002, via hand delivery to the following parties:

  
\_\_\_\_\_  
Naomi Adams

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